

Entered -11-01-01 - sb  
CL 01L0697 - GWENDOLYN BURNS

CLAIM OF: **BERNICE E. PENN**  
2127 Beecher Road, SW  
Atlanta, Georgia 30314

**02-*R*-2035**

For bodily injuries alleged to have been sustained from stepping into an open and exposed area that surrounds a City tree on August 24, 2001 at Broad Street and Alabama Street.

**BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE:**

**BE IT RESOLVED** by the Council of the City of Atlanta that the action of the Department of Law be approved in authorizing payment to **BERNICE E. PENN** the sum of **\$1,200.00** in full settlement and satisfaction of all claims, past, present and future, of every kind and character for bodily injuries alleged to have been sustained from stepping into an open and exposed area that surrounds a City tree on August 24, 2001 at Broad Street and Alabama Street as is more particularly set forth in the within claim; said sum taken from and charged to account **1A01/529017/T31001**, Settlement of Suits and Claims, Department of Law.

APPROVED:

LINDA K. DISANTIS  
CITY ATTORNEY

**FAVORABLE REPORT**

BY: *Rosalind Rubens Newell*  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

COMM: *Public Safety*  
DATE: *11-26-02*  
CHAIR: *[Signature]*

*[Signature]*  
**APPROVED**  
DEC - 5 2002  
**MAYOR**

*Carla Smith*  
*Hand Sign*  
*[Signature]*

**CERTIFIED**  
DEC 03 2002  
*Rosalind Rubens Newell*  
MUNICIPAL CLERK

DEC 02 2002





**MUNICIPAL CLERK  
ATLANTA, GEORGIA**

**02-R-2035**

**A RESOLUTION**

**BY PUBLIC SAFETY &  
LEGAL ADMINISTRATION COMMITTEE**

**BE IT RESOLVED BY** the Council of the City of Atlanta that the action of the Department of Law be approved in authorizing payment to **Bernice E. Penn** in the sum of **\$1,200.00** in full settlement and satisfaction of all claims, past, present and future, of every kind and character, for damages alleged to have been sustained **from stepping into an open and exposed area that surrounds a City tree on August 24, 2001 at Broad Street and Alabama Street** as is more particularly set forth in the within claim; said sum taken from and charged to Account 1A01/529017/T31001, Settlement of Suits and Claims, Department of Law.

A true copy,

A handwritten signature in black ink, appearing to read "K. E. Smith", is written over the text "A true copy," and the title "Deputy Clerk".

Deputy Clerk

**ADOPTED by the Council  
APPROVED by the Mayor**

DEC 02, 2002  
DEC 05, 2002



## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0697

Date: November 15, 2002

Claimant /Victim BERNICE E. PENN  
BY: (Atty) (Ins. Co.) \_\_\_\_\_  
Address: 2127 Beecher Road, SW, Atlanta, Georgia 30314  
Subrogation: \_\_\_\_\_ Claim for damage \$ 11,000.00 Bodily Injury \$ 730.00  
Date of Notice: 10/31/01 Method: Written, Proper X Improper \_\_\_\_\_  
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 8/24/01 Place: Broad Street & Alabama Street  
Department PUBLIC WORKS Division Street  
Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: Claimant sustained bodily injuries when she stepped into an open and exposed area in the sidewalk surrounding a City tree. An investigation determined that the area in question was missing a metal grate that protects the tree's root system and also provides a safe area of travel for pedestrians. Further inspection revealed that the City had no record to show that the hazard existed, however, the condition appeared to have existed for such a length of time that the City should have known about it.

### INVESTIGATION:

Statements: City employee X Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral X  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other \_\_\_\_\_  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_


### BASIS OF RECOMMENDATION:

Function: Governmental \_\_\_\_\_ Ministerial \_\_\_\_\_  
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable \_\_\_\_\_  
City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement X  
Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_  
Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - GWENDOLYN BURNS

### RECOMMENDATION:

Pay \$ 1,200.00 Adverse \_\_\_\_\_ Account charged: 1A01 X 2J01 \_\_\_\_\_ 2P01 \_\_\_\_\_ 2H01 \_\_\_\_\_  
Claims Manager:  Concur/date 11-15-02  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_



CONSENT I



**ITEMS ADOPTED ON CONSENT**

**AGENDA**

- |               |               |               |
|---------------|---------------|---------------|
| 1. 02-O-1925  | 31. 02-O-1920 | 62. 02-R-2104 |
| 2. 02-O-1926  | 32. 02-O-1921 | 63. 02-R-2112 |
| 3. 02-O-1927  | 33. 02-O-2001 | 64. 02-R-2113 |
| 4. 02-O-1928  | 34. 02-O-2097 | 65. 02-R-2115 |
| 5. 02-O-1929  | 35. 02-O-2098 | 66. 02-R-2116 |
| 6. 02-O-1969  | 36. 02-O-2099 | 67. 02-R-2117 |
| 7. 02-O-1976  | 37. 02-O-2100 | 68. 02-R-2125 |
| 8. 02-O-2095  | 38. 02-R-1593 | 69. 02-R-2126 |
| 9. 02-O-1998  | 39. 02-R-1848 | 70. 02-R-2016 |
| 10. 02-O-1892 | 40. 02-R-1849 | 71. 02-R-2017 |
| 11. 02-O-1903 | 41. 02-R-1850 | 72. 02-R-2018 |
| 12. 02-O-1907 | 42. 02-R-1985 | 73. 02-R-2019 |
| 13. 02-O-1139 | 43. 02-R-2003 | 74. 02-R-2022 |
| 14. 02-O-1292 | 44. 02-R-2004 | 75. 02-R-2060 |
| 15. 02-O-1913 | 45. 02-R-2009 | 76. 02-R-2061 |
| 16. 02-O-1930 | 46. 02-R-2010 | 77. 02-R-2062 |
| 17. 02-O-2103 | 47. 02-R-2011 | 78. 02-R-2069 |
| 18. 02-O-1922 | 48. 02-R-2012 | 79. 02-R-2072 |
| 19. 02-O-1923 | 49. 02-R-2013 | 80. 02-R-2074 |
| 20. 02-O-2091 | 50. 02-R-2014 | 81. 02-R-2122 |
| 21. 02-O-2092 | 51. 02-R-2057 | 82. 02-R-2023 |
| 22. 02-O-2105 | 52. 02-R-2058 | 83. 02-R-2064 |
| 23. 02-O-1396 | 53. 02-R-2073 | 84. 02-R-2065 |
| 24. 02-O-1792 | 54. 02-R-2015 | 85. 02-R-2066 |
| 25. 02-O-1914 | 55. 02-R-2059 | 86. 02-R-2070 |
| 26. 02-O-1915 | 56. 02-R-1216 | 87. 02-R-2028 |
| 27. 02-O-1916 | 57. 02-R-2119 | 88. 02-R-2029 |
| 28. 02-O-1917 | 58. 02-R-2123 | 89. 02-R-2030 |
| 29. 02-O-1918 | 59. 02-R-2055 | 90. 02-R-2031 |
| 30. 02-O-1919 | 60. 02-R-2063 | 91. 02-R-2032 |
|               |               | 92. 02-R-2033 |
|               |               | 93. 02-R-2034 |
|               |               | 94. 02-R-2035 |
|               |               | 95. 02-R-2036 |
|               |               | 96. 02-R-2037 |

**ITEMS ADVERSED ON CONSENT**

**AGENDA**

- |                |                |
|----------------|----------------|
| 97. 02-R-2027  | 107. 02-R-2047 |
| 98. 02-R-2038  | 108. 02-R-2048 |
| 99. 02-R-2039  | 109. 02-R-2049 |
| 100. 02-R-2040 | 110. 02-R-2050 |
| 101. 02-R-2041 | 111. 02-R-2051 |
| 102. 02-R-2042 | 112. 02-R-2052 |
| 103. 02-R-2043 | 113. 02-R-2053 |
| 104. 02-R-2044 | 114. 02-R-2054 |
| 105. 02-R-2045 |                |
| 106. 02-R-2046 |                |

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Consent I Vote: 9 Yeas; 0 Nays (See RCS #4251)

Items Removed from the Consent Agenda: 02-O-2096; 02-R-2094; 02-R-2114; 02-R-2118